

REMARKS

I. Status of the Claims

Claims 1-27 are pending in the application. Claim 28 was previously cancelled. Claims 1-20, 22, 24, and 27 stand rejected. Claims 6, 8, 12, 21, 23, 25, and 26 have been objected to. Applicants thank the Examiner for withdrawing objections to the specification, objections to the drawings, and rejections under 35 U.S.C. § 112. See Final Office Action at 2.

In this Amendment, Applicants have amended claim 6 to correct “clam 5” to “claim 5” in response to the objections to claims 6 and 8. Applicants have also addressed the perfection of the priority claim by submitting a certified translation of the priority document.

Applicants further submit that the 35 U.S.C. § 102 and § 103 rejections are in error since the cited references do not disclose the limitation “reticulated element” recited in independent claim 1. However, in order to advance prosecution, Applicants have amended claim 1 to clearly define the “reticulated element,” as requested by the Examiner, to place the application in condition for allowance. Applicants respectfully request entry of the amendments and allowance of the claims.

II. Priority

The Examiner indicates that “[p]riority still has not been perfected.” See Final Office Action at 2. A certified English translation of the Italian language priority document is attached to this Amendment. Applicants submit that the submission of this translation perfects the claim for priority in this application.

III. Translation of the Research Disclosure

The Examiner has indicated that "a translation is required" for the Research Disclosure to be considered. See Office Action mailed October 17, 2007, at 2. Applicants have obtained an English translation of the Research Disclosure submitted in the IDS filed December 13, 2004, and now submit the certified translation of the Research Disclosure on file in order to have this document fully considered by the Examiner.

IV. Claim Objections

Claims 6 and 8 are objected to due to "the typographical error 'clam 5'." Final Office Action at 2. Applicants have amended claim 6 to recite "claim 5" and request the withdrawal of the objections.

Claims 21, 23, 25, and 26 are objected to as being dependent upon rejected claim 19. Applicants submit that for the reasons set forth in the following, claim 19, as amended through the amendment to independent claim 1, is allowable. Therefore claims 21, 23, 25, and 26 are also allowable. Applicants respectfully request the withdrawal of the objections.

V. Claim Rejections under 35 U.S.C § 102

Nelson does not anticipate claims 1, 3, 5-12, 14-20, 22, 24, and 27

Claims 1, 3, 5-12, 14-20, 22, 24, and 27 are rejected under 35 U.S.C. § 102(e) as anticipated by US 2002/0142201 (hereinafter "Nelson") for reasons listed on pages 3-11 of the Final Office Action. The Examiner maintains that "intended use must result in a structural difference between the claimed invention and the prior art in order to

patentably distinguish the claimed invention from the prior art.” Final Office Action at 4. Applicants submit that, at a minimum, one example of such a structural difference is that the water injection ports in Nelson are fluidly sealed from the reaction cell (see Nelson, paragraph [0041]), while the fluid injection calibrated holes are fluidly connected to the reaction cell, as set forth in claim 1.

In addition, Applicants submit that Nelson does not disclose that “said anodic chamber (1) and said cathodic chamber (10) each has an electrically conductive reticulated element (7, 206),” as set forth in claim 1. In fact, Nelson teaches cooler plates having grooves (see Figure 6A, 6B, 6C). In contrast, the electrically conductive reticulated element is described in the present specification as “electrically connecting the conductive bipolar plates 3 to the porous electrode 5 while simultaneously distributing the gaseous reactants.” See Specification at 6, lines 2-5. As an example, the specification makes reference to reticulated materials “of the type described in U.S. Pat. No. 5,482,792.” See specification at 6, lines 2-4. U.S. Pat. No. 5,482,792, in turn, describes a reticulated material as a tridimensional network of metal wires. See, for example, U.S. Pat. No. 5,482,792, claim 2. Fig. 5 from U.S. Patent No. 5,482,792, is referenced below, and provides an example of the reticulated material of the instant application.

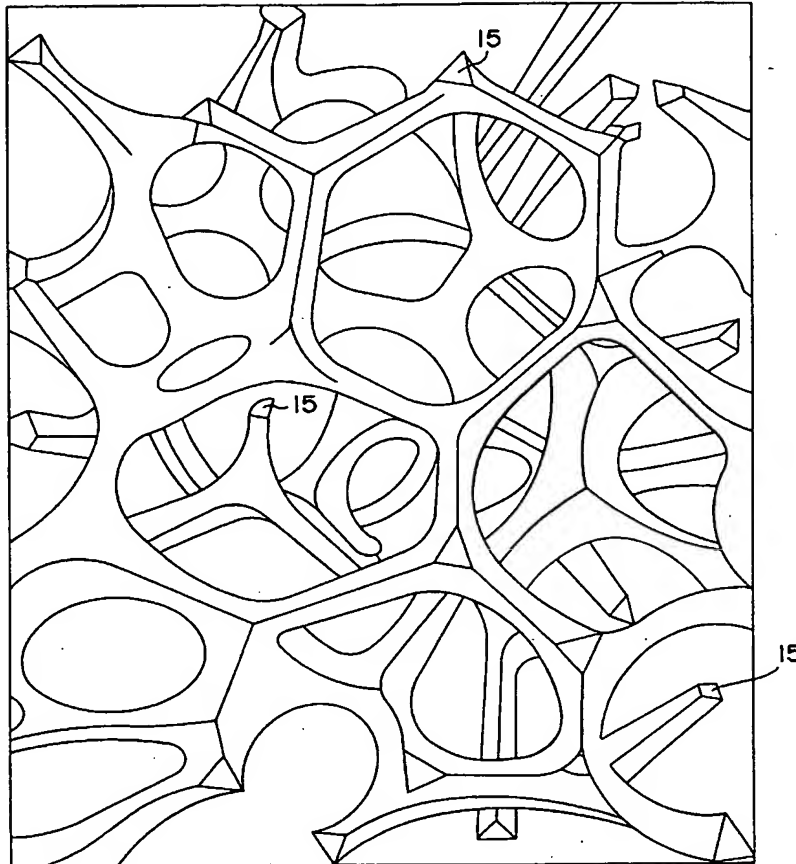


FIG. 5

In the Final Office Action, the Examiner rejected Applicants' prior similar argument, asserting that "the features upon which applicant relies (i.e., the specific definition of reticulated element, as defined in the specification and examples provided in the specification) are not recited in the rejected claim(s)." See Final Office Action at 15. In order to advance prosecution, Applicants have amended claim 1, setting forth the definition of a reticulated element. Applicants submit that claim 1, as amended, and all claims dependent therefrom clearly distinguish from and are not anticipated by Nelson.

Jones does not anticipate claims 1, 2, 4, and 27

The Examiner maintains the rejections to claims 1, 2, 4, and 27 under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 5,998,054 (hereinafter "Jones") for reasons listed on pages 11, 12, and 15 of the Final Office Action, noting in particular that the instant claims do not set forth "the specific definition of reticulated material." Final Office Action at 15. Applicants disagree, and submit that this rejection has been rendered moot by the recitation of the definition of the reticulated element in claim 1.

Applicants submit that, for reasons set forth above, claim 1, as amended, and all claims dependent therefrom are not anticipated by Jones.

Horiguchi does not anticipate claims 1, 2, 9, and 13

Claims 1, 2, 9, and 13 are rejected under 35 U.S.C. § 102(e) as anticipated by US 2003/0039875 (hereinafter "Horiguchi") for reasons listed on pages 12-14 of the Final Office Action. The Examiner asserts that "current collectors [14, 15] made of conductive material and provide reactant to the anode and cathode and are thus reticulated." Final Office Action at 13.

Applicants maintain that current collector plates in Horiguchi are machined metal plates, which bear little resemblance to the reticulated material disclosed in the claimed invention. Moreover, claim 1 has been amended to explicitly recite the definition of the reticulated element. Accordingly, for reasons set forth above, Applicants submit that claim 1, as amended, and claims dependent therefrom, are not anticipated by Horiguchi.

VI. Claim Rejections under 35 U.S.C § 103

Claims 1, 3, 5-12, 14-20, 22, 24, and 27 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Nelson in view of Jones. See Final Office Action at 17-24.

Applicants submit that, for reasons set forth above, neither Nelson nor Jones disclose a "reticulated element" as recited in claim 1. For at least this reason, Nelson and Jones do not teach each and every element in claim 1, as amended, and all claims dependent therefrom. Applicants request the withdrawal of the 103(a) rejection.

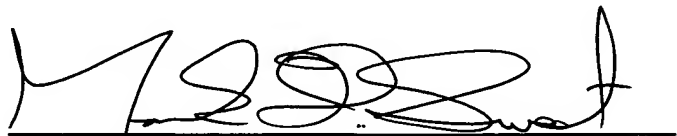
VII. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

A handwritten signature in black ink, appearing to read 'Mark D. Sweet', written over a horizontal line.

Mark D. Sweet
Reg. No. 41,469

Dated: September 25, 2008